

110TH CONGRESS  
1ST SESSION

# H. R. 3234

To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2007

Mr. CANTOR (for himself and Mr. SAM JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE, ETC.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “HSA Improvement and Expansion Act of 2007”.

6       (b) AMENDMENT OF 1986 CODE.—Except as other-  
7       wise expressly provided, whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment  
9       to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents is  
 4 as follows:

Sec. 1. Short title, etc.

Sec. 2. Health reimbursement arrangements and spending arrangements in  
 combination with health savings accounts.

Sec. 3. Increase in annual HSA contribution limitation.

Sec. 4. Purchase of health insurance from HSA account.

Sec. 5. Special rule for certain medical expenses incurred before establishment  
 of account.

Sec. 6. Provisions relating to Medicare.

Sec. 7. Individuals eligible for veterans benefits for a service-connected dis-  
 ability.

Sec. 8. Allow both spouses to make catch-up contributions to the same HSA  
 account.

Sec. 9. FSA and HRA Termination to fund HSAs.

5 **SEC. 2. HEALTH REIMBURSEMENT ARRANGEMENTS AND**  
 6 **SPENDING ARRANGEMENTS IN COMBINATION**  
 7 **WITH HEALTH SAVINGS ACCOUNTS.**

8 (a) IN GENERAL.—Subparagraph (B) of section  
 9 223(c)(1) (relating to certain coverage disregarded) is  
 10 amended by striking “and” at the end of clause (ii), by  
 11 striking the period at the end of clause (iii) and inserting  
 12 “, and”, and by inserting after clause (iii) the following  
 13 new clause:

14 “(iv) coverage under a flexible spend-  
 15 ing arrangement or a health reimburse-  
 16 ment arrangement, or both, which meets  
 17 the requirements of paragraph (6).”.

18 (b) COMBINATION HEALTH REIMBURSEMENT, SAV-  
 19 INGS, AND SPENDING ARRANGEMENTS.—Subsection (c) of

1 section 223 (relating to definitions and special rules) is  
2 amended by adding at the end the following new para-  
3 graph:

4 “(6) COMBINED LIMIT FOR CONTRIBUTIONS OR  
5 CREDITS TO HEALTH REIMBURSEMENT, ARRANGE-  
6 MENTS AND SPENDING ARRANGEMENTS.—

7 “(A) IN GENERAL.—In the case of cov-  
8 erage under a flexible spending arrangement or  
9 a health reimbursement arrangement, or both,  
10 such coverage meets the requirements of this  
11 paragraph if, with respect to an individual—

12 “(i) the sum of—

13 “(I) the amount allowable as a  
14 deduction under subsection (a),

15 “(II) the salary reduction  
16 amount elected by the individual and,  
17 if applicable, the employer contribu-  
18 tion or credit allocated to the indi-  
19 vidual for the taxable year under the  
20 flexible spending arrangement (as de-  
21 fined in section 106(c)(2)), plus

22 “(III) the amounts that the indi-  
23 vidual is permitted, under the terms  
24 of the plan, to receive in reimburse-  
25 ments for the taxable year under the

1 health reimbursement arrangement,  
2 does not exceed

3 “(ii) the sum of the annual deductible  
4 and the other annual out-of-pocket ex-  
5 penses (other than for premiums) required  
6 to be paid under the plan by the eligible  
7 individual for covered benefits.

8 “(B) EXCEPTIONS FOR DISREGARDED COV-  
9 ERAGE.—For purposes of subparagraph (A)—

10 “(i) CERTAIN FLEXIBLE SPENDING  
11 ARRANGEMENTS.—Any flexible spending  
12 arrangement salary reduction amounts or  
13 employer contributions or credits that are  
14 restricted by the employer to use for cov-  
15 erage described in paragraph (1)(B) shall  
16 not be taken into account under subpara-  
17 graph (A)(i)(II).

18 “(ii) CERTAIN HEALTH REIMBURSE-  
19 MENT ARRANGEMENTS.—Any reimburse-  
20 ments from a health reimbursement ar-  
21 rangement for coverage described in para-  
22 graph (1)(B) shall not be taken into ac-  
23 count under subparagraph (A)(i)(III).

24 “(iii) QUALIFIED HSA DISTRIBUTIONS  
25 FROM FSA AND HRA TERMINATIONS.—Any

1 qualified HSA distribution (as defined in  
 2 section 106(e)) shall not be taken into ac-  
 3 count under subparagraph (A)(i).

4 “(C) TERMINATION.—Coverage shall not  
 5 be treated as meeting the requirements of this  
 6 paragraph for any taxable year beginning after  
 7 December 31, 2012.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to taxable years beginning after  
 10 December 31, 2007.

11 **SEC. 3. INCREASE IN ANNUAL HSA CONTRIBUTION LIMITA-**  
 12 **TION.**

13 (a) IN GENERAL.—Paragraph (2) of section 223(b)  
 14 (relating to monthly limitation) is amended—

15 (1) in subparagraph (A) by striking “\$2,250”  
 16 and inserting “\$4,500”, and

17 (2) in subparagraph (B) by striking “\$4,500”  
 18 and inserting “\$9,000”.

19 (b) COST-OF-LIVING ADJUSTMENT.—Section  
 20 223(g)(1)(B)(i) is amended by striking “calendar year  
 21 1997” and inserting “calendar year 2007”.

22 (c) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to taxable years beginning after  
 24 December 31, 2007.

1 **SEC. 4. PURCHASE OF HEALTH INSURANCE FROM HSA AC-**  
 2 **COUNT.**

3 (a) IN GENERAL.—Paragraph (2) of section 223(d)  
 4 (defining qualified medical expenses) is amended—

5 (1) by striking subparagraphs (B) and (C),

6 (2) in subparagraph (A) by striking “(A) IN  
 7 GENERAL.—” and moving the text 2 ems to the left,  
 8 and

9 (3) by inserting “ and including payment for in-  
 10 surance)” after “section 213(d)”.

11 (b) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply with respect to insurance pur-  
 13 chased after the date of the enactment of this Act in tax-  
 14 able years beginning after such date.

15 **SEC. 5. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**  
 16 **INCURRED BEFORE ESTABLISHMENT OF AC-**  
 17 **COUNT.**

18 (a) IN GENERAL.—Subsection (d) of section 223, as  
 19 amended by section 4, is amended by redesignating para-  
 20 graph (4) as paragraph (5) and by inserting after para-  
 21 graph (3) the following new paragraph:

22 “(4) CERTAIN MEDICAL EXPENSES INCURRED  
 23 BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS  
 24 QUALIFIED.—

25 “(A) IN GENERAL.—For purposes of para-  
 26 graph (2), an expense shall not fail to be treat-

1 ed as a qualified medical expense solely because  
2 such expense was incurred before the establish-  
3 ment of the health savings account if such ex-  
4 pense was incurred during the 60-day period  
5 beginning on the date on which the high de-  
6 ductible health plan is first effective.

7 “(B) SPECIAL RULES.—For purposes of  
8 subparagraph (A)—

9 “(i) an individual shall be treated as  
10 an eligible individual for any portion of a  
11 month for which the individual is described  
12 in subsection (c)(1), determined without  
13 regard to whether the individual is covered  
14 under a high deductible health plan on the  
15 1st day of such month, and

16 “(ii) the effective date of the health  
17 savings account is deemed to be the date  
18 on which the high deductible health plan is  
19 first effective after the date of the enact-  
20 ment of this paragraph.”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply with respect to insurance pur-  
23 chased after the date of the enactment of this Act in tax-  
24 able years beginning after such date.

1 **SEC. 6. PROVISIONS RELATING TO MEDICARE.**

2 (a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN  
 3 MEDICARE PART A.—Section 223(b)(7) (relating to con-  
 4 tribution limitation on Medicare eligible individuals) is  
 5 amended by adding at the end the following new sentence:  
 6 “This paragraph shall not apply to any individual during  
 7 any period the individual’s only entitlement to such bene-  
 8 fits is an entitlement to hospital insurance benefits under  
 9 part A of title XVIII of such Act pursuant to an enroll-  
 10 ment for such hospital insurance benefits under section  
 11 226(a)(1) of such Act.”.

12 (b) MEDICARE BENEFICIARIES PARTICIPATING IN  
 13 MEDICARE ADVANTAGE MSA MAY CONTRIBUTE THEIR  
 14 OWN MONEY TO THEIR MSA.—Subsection (b) of section  
 15 138 is amended by striking paragraph (2) and redesign-  
 16 ating paragraphs (3) and (4) as paragraphs (2) and (3),  
 17 respectively.

18 (c) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to taxable years beginning after  
 20 the date of the enactment of this Act.

21 **SEC. 7. INDIVIDUALS ELIGIBLE FOR VETERANS BENEFITS**  
 22 **FOR A SERVICE-CONNECTED DISABILITY.**

23 (a) IN GENERAL.—Section 223(c)(1) (defining eligi-  
 24 ble individual) is amended by adding at the end the fol-  
 25 lowing new subparagraph:



1                   “(D) SPECIAL RULE FOR INDIVIDUALS EL-  
 2                   IGIBLE FOR CERTAIN VETERANS BENEFITS.—  
 3                   For purposes of subparagraph (A)(ii), an indi-  
 4                   vidual shall not be treated as covered under a  
 5                   health plan described in such subparagraph  
 6                   merely because the individual receives periodic  
 7                   hospital care or medical services for a service-  
 8                   connected disability under any law administered  
 9                   by the Secretary of Veterans Affairs but only if  
 10                  the individual is not eligible to receive such care  
 11                  or services for any condition other than a serv-  
 12                  ice-connected disability.”.

13           (b) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to taxable years beginning after  
 15 the date of the enactment of this Act.

16 **SEC. 8. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**  
 17 **TRIBUTIONS TO THE SAME HSA ACCOUNT.**

18           (a) IN GENERAL.—Paragraph (3) of section 223(b)  
 19 is amended by adding at the end the following new sub-  
 20 paragraph:

21                   “(C) SPECIAL RULE WHERE BOTH  
 22                   SPOUSES ARE ELIGIBLE INDIVIDUALS WITH 1  
 23                   ACCOUNT.—If—

1 “(i) an individual and the individual’s  
 2 spouse have both attained age 55 before  
 3 the close of the taxable year, and

4 “(ii) the spouse is not an account ben-  
 5 eficiary of a health savings account as of  
 6 the close of such year,  
 7 the additional contribution amount shall be 200  
 8 percent of the amount otherwise determined  
 9 under subparagraph (B).”.

10 (b) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to taxable years beginning after  
 12 the date of the enactment of this Act.

13 **SEC. 9. FSA AND HRA TERMINATION TO FUND HSAS.**

14 (a) GRACE PERIOD NOT REQUIRED.—Section  
 15 106(e)(2) of the Internal Revenue Code of 1986 is amend-  
 16 ed by adding at the end the following new sentence: “A  
 17 distribution shall not fail to be treated as a qualified HSA  
 18 distribution merely because the balance in such arrange-  
 19 ment is determined without regard to the requirement that  
 20 unused amounts remaining at the end of a plan year must  
 21 be forfeited in the absence of a grace period.”.

22 (b) DEPOSIT IN LIMITED FSA OR HRA OF FUNDS  
 23 IN EXCESS FSA OR HRA TERMINATION DISTRIBU-  
 24 TION.—Paragraph (1) of section 106(e) of such Code is  
 25 amended by inserting before the period at the end thereof

1 the following: “and the deposit of funds in excess of a  
2 qualified HSA distribution amount into a health flexible  
3 spending account or health reimbursement arrangement  
4 which is compatible with a health savings account and  
5 which, on the date of such distribution, is a part of the  
6 employer’s plan”.

7 (c) DISCLAIMER OF DISQUALIFYING COVERAGE.—  
8 Subparagraph (B) of section 223(c)(1) of such Code is  
9 amended by striking “and” at the end of clause (ii), by  
10 striking the period at the end of clause (iii) and inserting  
11 “, and”, and by inserting after clause (iii) the following  
12 new clause:

13 “(iv) any coverage (whether actual or  
14 prospective) otherwise described in sub-  
15 paragraph (A)(ii) which is disclaimed at  
16 the time of the creation or organization of  
17 the health savings account.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 the date of the enactment of this Act.

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